



Federal Communications Commission
Washington, D.C. 20554

DA 07-3384
Released: July 24, 2007

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Robert Hawxhurst
2890 Emily Lane W.
Jacksonville, Florida 32216

Re: Application for Renewal of License
Station WAWS(TV), Jacksonville, Florida
File No. BRCT-20040930BEV
Facility ID No. 11909

Dear Mr. Hawxhurst:

On January 3, 2005, Mr. Robert Hawxhurst filed a letter, which we consider here as an informal objection,¹ opposing the above-reference license renewal application of Clear Channel Broadcasting Licenses, Inc. ("Clear Channel"), licensee of Station WAWS(TV), Jacksonville, Florida. Clear Channel has not filed an opposition. For the reasons set forth below, we deny the informal objection.

Mr. Hawxhurst was a contestant in a May 2004 contest offered by station WAWS(TV) entitled "Win a Hot Rod For Dad." In his informal objection, and in a virtually identical complaint filed with the Commission, Mr. Hawxhurst states that, contrary to the official announced rules of the contest, the station improperly excluded multiple entries that he had submitted, thereby substantially limiting his chances of winning any of the advertised prizes. Mr. Hawxhurst also asserts that the contest was rigged and, citing the alleged questionable character of station WAWS(TV) management, he asks that the license renewal not be granted.

On April 20, 2006, the Chief, Investigations and Hearings Division, acting on Mr. Hawxhurst's complaint, issued a *Notice of Apparent Liability for Forfeiture* against Clear Channel, finding that station WAWS(TV) failed to conduct the contest substantially as announced or advertised, in apparent willful violation of section 73.1216 of the Commission's

¹ We exercise our discretion to consider the allegations contained in the letter, which does not meet the pleading requirements of section 309(d) of the Communications Act of 1934, as amended (the "Act"), pursuant to section 73.3587 of the Commission's rules. 47 C.F.R. §73.3587.

rules.² The *Notice of Apparent Liability for Forfeiture* found, however, that the base forfeiture amount of \$4,000 was appropriate since Clear Channel took “reasonably prompt remedial action prior to learning of [the] investigation.”³ Clear Channel paid the assessed forfeiture on the date the *Notice of Apparent Liability for Forfeiture* was issued.

Section 309(k)(1) of the Act states that the Commission shall grant a license renewal application if it finds, with respect to that station, that (a) the station has served the public interest, convenience, and necessity; (b) there have been no serious violations by the licensee of the Communications Act or Commission rules and regulations; and (c) there have been no other violations by the licensee of the Act or Commission rules or regulations which, taken together, would constitute a pattern of abuse.⁴ With respect to whether the station has served the public interest, the petition must first contain specific allegations of fact sufficient to show that such a grant would be prima facie inconsistent with the public interest.⁵ If so, the Commission will designate the application for hearing if the allegations, together with any opposing evidence before the Commission, raise a substantial and material question of fact as to whether grant would serve the public interest, or if the Commission is otherwise unable to conclude that granting the application would serve the public interest.⁶

As described in further detail in the *Notice of Apparent Liability for Forfeiture*, Clear Channel has conceded that Station WAWS(TV) personnel did not conduct the contest in accordance with the official rules. It has stated that, in preparing for the drawing, station personnel incorrectly relied on an outdated, draft version of the rules which contained language limiting to one the number of contest entries that an individual could submit. After receiving a number of complaints about the manner in which it had conducted the initial drawing, Clear Channel decided to conduct a second drawing, on August 28, 2004, applying the official rules from the first drawing.

In this case, we find that issuance of the *Notice of Apparent Liability for Forfeiture* was the appropriate sanction for the violation at issue. Mr. Hawxhurst has not alleged other violations of the Commission’s contest rule other than actions taken in connection with the 2004 “Win a Hot Rod for Dad” contest. Based upon our review of the facts and circumstances, in particular Clear Channel’s decision to take prompt remedial action, we find that the conduct at issue did not constitute a “serious violation” of the Commission’s rules. For example, we do not find here that the licensee’s station operation “was conducted in an exceedingly careless, inept and negligent manner and that the licensee is either incapable of correcting or unwilling to correct the operating deficiencies.”⁷ Nor do we find on the record here that the number, nature and extent of the violations indicate that Clear Channel cannot be relied upon to operate station

² *Clear Channel Broadcasting Licenses, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 4072 (IHD 2006); 47 C.F.R. § 73.1216.

³ *Clear Channel Broadcasting Licenses, Inc.*, 21 FCC Rcd at 4074.

⁴ 47 U.S.C. §309(k)(1).

⁵ 47 U.S.C. §309(d)(1); *Astroline Communications Co. Ltd. Partnership v. FCC*, 857 F.2d 1556 (D.C. Cir. 1988) (“Astroline”).

⁶ *Astroline*, 857 F.2d at 1561; 47 U.S.C. §309(e).

⁷ See *Heart of Black Hills Stations*, 32 F.C.C.2d 196, 198 (1971).

WAWS(TV) in the future “in accordance with the requirements of its license and the Commission's Rules.”⁸ Mr. Hawxhurst’s allegations, moreover, do not support the conclusion that grant of the license renewal application would be *prima facie* inconsistent with the public interest, convenience, and necessity.

Accordingly, the informal objection filed by Robert Hawxhurst **IS DENIED**.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁸ See *Id.* at 200.